

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of ____, 2002:

Present

Vote

Donald E. Wiggins, Chairman
Walter C. Zaremba, Vice Chairman
Sheila S. Noll
James S. Burgett
Thomas G. Shepperd, Jr.

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE THE COUNTY'S MEMBERSHIP IN THE
VIRGINIA ENERGY PURCHASING GOVERNMENTAL ASSOCIATION
(VEPGA) AND TO AUTHORIZE EXECUTION OF THE JOINT POWERS
AGREEMENT

WHEREAS, the VML/VACo Virginia Power Steering Committee (the "Committee"), composed of representatives of the County of York and other local governments and political subdivisions of the Commonwealth, has for over several decades negotiated on behalf of such governmental units a standard form contract for their purchase of electricity supply and delivery service from Virginia Electric and Power Company ("Virginia Power") as a sole source provider; and

WHEREAS, political subdivisions of the Commonwealth of Virginia are authorized under Virginia law to exercise jointly powers they otherwise are authorized to exercise independently, and the terms and conditions of such authorization are currently set forth in Sections 15.2-1300, et seq. of the Virginia Code (the "Joint Powers Act"); and

WHEREAS, the Virginia Electric Utility Restructuring Act (the "Restructuring Act") further authorizes municipalities and other political subdivisions in the Commonwealth to aggregate their electricity supply requirements for the purpose of their joint purchase of such requirements from licensed suppliers, and the Restructuring Act provides that such aggregation shall not require licensure; and

WHEREAS, the Virginia Public Procurement Act (the "Procurement Act") exempts from its competitive sealed bidding and competitive negotiation requirements (the "Requirements") the joint procurement by public bodies, utilizing competitive principles,

of electric utility services purchased through member associations under the conditions set forth in the Procurement Act; and

WHEREAS, the Committee recommends that the aggregation and procurement of electric supply, electric delivery, and other energy-related services ("Energy Services") be effectuated as provided in the Joint Powers Association Agreement, a copy of which is attached to the County Administrator's report to the Board of Supervisors dated April 4, 2002, and made part of this ordinance by reference (the "Joint Powers Agreement"), in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements; and

WHEREAS, the Committee also recommends that the other services provided by the Committee to its members be effectuated as provided in the Joint Powers Agreement, with such services consisting of (i) assistance in implementing standard form contracts for the purchase of services from incumbent electricity utilities, (ii) education of members regarding electricity procurement issues, (iii) monitoring of legal and regulatory developments affecting the provision of electricity service to local governments, and (iv) hiring of consultants and legal counsel to assist in its provisions of the foregoing services ("Steering Committee Services"); and

WHEREAS, it appearing to the Board of Supervisors of the County of York that the joint procurement of the Energy Services pursuant to the Joint Powers Agreement and the provision of Steering Committee Services pursuant to the Joint Powers Agreement is otherwise in the best interests of County of York;

NOW, THEREFORE, BE IT HEREBY ORDAINED THAT:

(1) Competitive sealed bidding and competitive negotiation for the procurement of Energy Services are not fiscally advantageous to the public because the procurement process for Energy Services must be flexible enough to respond quickly to changing market conditions in which energy prices can fluctuate considerably on a daily or even hourly basis.

(2) The aggregation and joint procurement of the Energy Services pursuant to the Joint Powers Agreement is hereby approved.

(3) The provision of Steering Committee Services pursuant to the Joint Powers Agreement is hereby approved.

(4) The Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of the County of York are hereby authorized and approved.

(4) The County Administrator is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the County of York in substantially the form presented to this meeting.

(6) The payment obligations of the County of York pursuant to the provisions

hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefore by the Board of Supervisors.

- (7) This Ordinance shall take effect immediately upon its adoption or passage.